§3957. ASSESSMENTS AGAINST INSURERS

1. **Assessments.** For the purpose of providing the funds necessary to carry out the powers and duties of the association under section 3955, the board shall assess insurers at such a time and for such amounts as the board finds necessary. Assessments are due not less than 30 days after written notice to the insurers and accrue interest at 12% per annum on and after the due date.

[2011, c. 90, Pt. B, §8 (NEW) .]

2. **Maximum assessment.** The board shall assess each insurer an amount not to exceed $4 per month per covered person enrolled in medical insurance insured, reinsured or administered by the insurer. An insurer may not be assessed on policies or contracts insuring federal or state employees except for policies or contracts insuring Legislators and their dependents. For policies or contracts insuring Legislators and their dependents, Legislators shall pay the amount of the assessment to the insurer.

[2011, c. 452, §1 (AMD) .]

3. **Determination of assessment.** The board shall make reasonable efforts to ensure that each covered person is counted only once with respect to an assessment. For that purpose, the board shall require each insurer that obtains excess or stop loss insurance to include in its count of covered persons all persons whose coverage is insured, in whole or in part, through excess or stop loss coverage. The board shall allow a reinsurer to exclude from its number of covered persons those who have been counted by the primary insurer or by the primary reinsurer or primary excess or stop loss insurer for the purpose of determining its assessment under this subsection. The board may verify the amount of each insurer's assessment based on annual statements and other reports determined to be necessary by the board. The board may use any reasonable method of estimating the number of covered persons of an insurer if the specific number is not reported.

[2011, c. 90, Pt. B, §8 (NEW) .]

4. **Organizational assessments.** The board may assess insurers for the purpose of organizing the association. Organizational assessments must be equal in amount for all insurers but may not exceed $500 per insurer for all such assessments.

[2011, c. 90, Pt. B, §8 (NEW) .]

5. **Assessments to cover net losses.** In addition to the assessment described in subsections 1 to 3, the board shall assess insurers at such a time and for such amounts as the board finds necessary to cover any net loss in an amount not to exceed $2 per month per covered person enrolled in medical insurance insured, reinsured or administered by the insurer in accordance with this subsection.

A. Before April 1st of each year, the association shall determine and report to the superintendent the association's net losses for the previous calendar year, including administrative expenses and incurred losses for the year, taking into account investment income and other appropriate gains and losses and an estimate of the assessments needed to cover the losses incurred by the association in the previous calendar year. [2011, c. 90, Pt. B, §8 (NEW).]

B. [2011, c. 621, §3 (RP).]

C. The association shall impose a penalty of interest on insurers for late payment of assessments. [2011, c. 90, Pt. B, §8 (NEW).]

D. An insurer may not be assessed on policies or contracts insuring federal or state employees, except for policies or contracts insuring Legislators and their dependents. Any assessment required under this subsection on policies or contracts insuring Legislators and their dependents must be paid as provided in subsection 2. [2011, c. 452, §2 (NEW).]

[2011, c. 621, §3 (AMD) .]

6. **Deferral of assessment.** An insurer may apply to the superintendent for a deferral of all or part of an assessment imposed by the association under this section. The superintendent may defer all or part of the assessment if the superintendent determines that the payment of the assessment would place the insurer in a financially impaired condition. If all or part of the assessment is deferred, the amount deferred must be assessed against other insurers in a proportionate manner consistent with this section. The insurer that receives a deferral remains liable to the association for the amount deferred and is prohibited from reinsuring any person through the association until such time as the insurer pays the assessments.

[2011, c. 90, Pt. B, §8 (NEW) .]

7. **Excess funds.** If assessments and other receipts by the association, board or administrator selected pursuant to section 3956 exceed the actual losses and administrative expenses of the association, the board shall hold the excess as interest and shall use those excess funds to offset future losses or to reduce reinsurance premiums. As used in this subsection, "future losses" includes reserves for claims incurred but not reported.

[2011, c. 90, Pt. B, §8 (NEW) .]

8. **Failure to pay assessment.** The superintendent may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this State of any member insurer that fails to pay an assessment. As an alternative, the superintendent may levy a penalty on any insurer that fails to pay an assessment when due. In addition, the superintendent may use any power granted to the superintendent by this Title to collect any unpaid assessment.

[2011, c. 90, Pt. B, §8 (NEW) .]

9. **Federal funding; reduction of assessment.** The board shall work collaboratively with the Dirigo Health Program established pursuant to chapter 87 to develop a proposal to access unused funds from the State's allocation from the federal preexisting condition insurance plan established pursuant to the federal Affordable Care Act to be used to fund, in part, the operations of the association. Any federal funding obtained by the association must be used to reduce the assessment of member insurers required under this section. In developing the proposal, funds necessary for the federal preexisting condition insurance plan as currently administered by Dirigo Health have priority over any funds transferred to the association.

[2011, c. 90, Pt. B, §8 (NEW) .]

SECTION HISTORY
2011, c. 90, Pt. B, §8 (NEW). 2011, c. 452, §§1, 2 (AMD). 2011, c. 621, §3 (AMD).